

# **DEPARTMENT OF PERSONNEL AND ADMINISTRATION**

## **Division of Risk Management**

### **1 CCR 105-1**

#### **Proposed RULES FOR THE RISK MANAGEMENT DIVISION OF DEPARTMENT OF ADMINISTRATION**

##### **CHAPTER - VII HIGHER EDUCATION EXEMPTION FROM RISK MANAGEMENT PROGRAM**

**7-1** The rules in this chapter apply to services provided pursuant to C.R.S. 24-30-1501 through C.R.S. 24-30-1520 (Part 15).

**7-2** Risk Management Program. The Risk Management Program is a single program including three service areas: property, liability and workers' compensation. Any higher education governing board electing to exclude from the Risk Management Program any institution, pursuant to House Bill 04-1009, C.R.S. 24-30-1502(5), as amended, must opt out of all three services as to such institution. Each institution excluded from the Risk Management Program shall assume, or adequately provide for, all liability for claims payments payable on and after the effective date of the opt out (i.e., both prospective and tail claims liability).

A. Program Waiver. At the sole discretion of the Executive Director of the Department of Personnel & Administration (DPA), the Executive Director may grant a temporary program waiver allowing any institution of higher education to continue to receive services in one or more of the three service areas (property, liability or workers compensation). If a program waiver is granted, the institution of higher education must assume, or adequately provide for, all remaining services by the following July 1<sup>st</sup>, unless a subsequent waiver is granted.

B. Claims Liability Waiver. Unless the Executive Director grants a claims waiver as to portions of the entire claims liability, any institution of higher education opting out shall assume, or adequately provide for, all liability for claims payments payable on and after the effective date of the opt out (i.e., both prospective and tail claims liability) as to each service area removed.

C. Criteria. In granting a waiver, the Executive Director may consider any or all of the following criteria: in consultation with the Office of State Planning and Budgeting (OSPB), the ability of remaining agencies to make the necessary budget adjustment; implications to risk management,

contractual obligations; and any other factors the Executive Director deems relevant.

**7-3** If either a program waiver or a claims waiver is requested, an actuarial analysis of claim history, payments, and reserves is required.

A. The cost of the actuarial analysis will be shared equally between DPA and the institution of higher education seeking to be excluded from the Risk Management Program. Selection of the actuary is at the sole discretion of the Executive Director.

B. The Executive Director will determine the amount of excess allocations, if any, that may be due to the institution of higher education for the tail claims liability.

**7-4** A. The effective date of the exclusion from the Risk Management Program shall be July 1 following written notice as provided below. Written notice must be received by the Executive Director of the DPA not later than 12 months prior to the effective date, and must provide a copy of the governing board decision. In order to ensure an orderly process consistent with budgetary and appropriation requirements, the written notice shall include an explanation of how the higher education institution intends to assume responsibility for, or adequately provide for, liabilities; if not already provided, a copy of the written report required by C.R.S. 24-30-1503.5(2) that sets forth the analysis of the higher education institution's ability to provide worker's compensation services, estimated property and liability losses; insurance costs and administrative costs of risk management that they expect to incur.

B. Notice Waiver At the discretion of the Executive Director of the DPA, the Executive Director may grant a waiver of the 12 months written notice requirement allowing any institution of higher education to provide less than 12 months written notice.

In granting a notice waiver, the Executive Director may consider any or all of the following criteria: in consultation with the Office of State Planning and Budgeting (OSBP), the ability of remaining agencies to make the necessary budget adjustments; implications to risk management; contractual obligations; and any other factors the Executive Director deems relevant.

**7-5** A copy of the report required by C.R.S. 24-30-1503.5(2) shall be provided to the Executive Director at the same time it is provided to the General Assembly.

(Effective August 17, 2004 on an emergency basis; Adopted July 27, 2004.)